IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE JURISDICTION

WRIT PETITION NO.1907 OF 2005

M/s.Afcons Infrastructure Ltd. ..Petitioner

Vs.

United Labour Union and Ors. ..Respondents

....

Mr.J.P.Cama i/b M/s.Sanjay Udeshi & Co. for Petitioner
Mr.K.K.Singhvi with
Mr.Sushil Mahadeshwar for Respondent No.1

....

CORAM : B.H.MARLAPALLE,J.

DATE : APRIL 8,2005

P.C.:

1. Heard Mr.J.P.Cama, the learned senior counsel for the Petitioner-Company and Mr.K.K.Singhvi, the learned senior counsel with Mr.Sushil Mahadeshwar for the Respondents.

2. The Petitioner has approached the Industrial Court at Pune and filed Complaint (ULP) NO. 99 of 2005 under Section 28 read with Items 1, 2(a), (b), 5 and 6 of Schedule III of the M.R.T.U. and P.U.L.P.Act, 1971, along with an application for interim injunction filed under Section 30(2) of the said Act.

3. On the application for interim relief below Exh.-C-2, the learned Member of the Industrial Court was pleased to pass an exparte decree on 1.2.2005 in terms of the following directions:

. "The Respondents are hereby temporary restrained from indulging in any act of force or violence as well as from adopting any coercive action such as gherao to the members of the managerial staff of the complainant-company and also from giving abusive slogans and/or holding violent demonstration within the periphery of 200 Mts. from the office of the Complainant as well as site work locations from Pune University Circle to Agriculture College Gate and Casting yards situated at Bhavdhan Budruk, Pune and near the residential premises of managerial staff of the complainant till next date i.e. 15.2.2005".

4. The written statement was filed by the Respondents and they opposed the complaint as well as the application for interim relief. After hearing the respective parties, the learned Member was pleased to reject the application for interim relief vide Exh.C-2 on 1.3.2005 holding that prima facie, there was no case made out for continuing the exparte order of ad-interim injunction. Hence, this petition by the company.

5. It appears that the dispute between the parties arose on account of non-employment of some 50 and odd

workmen. On 17.3.2005 common order has been passed below Exh.C-1, Exh.U-10 and Exh.C-20 by the Industrial Court at Pune. 39 of the workmen rendered unemployed allegedly, have been reinstated and the dispute between the parties remains regarding the employment of 17 such workmen. This issue is presently pending before the Conciliation Officer so as to settle the matter amicably.

6. Though the reasoning given by the learned Member of the Industrial Court in the impugned order regarding the prima facie case of unfair labour practice against the respondent does not appear o be perverse or manifestly erroneous, there is sufficient material on record to believe that the concerned work of the flyovers from the University Circle to the Gate of Agriculture College on the Ganesh Khind road of Pune city was disturbed and it had come to a standstill for sometime on account of the dispute regarding non-employment of some workmen. The letter addressed by the Maharashtra State Road Development Corporation at whose instance these flyovers are being constructed, also lends support to these disturbing instances. It cannot be accepted that pending negotiations between the parties with the help of Conciliation Officer that the construction work is disturbed or brought to a standstill and law and order situation is created on the public roads in

connection with such pending issues. The construction work must proceed uninterruptedly on any count and it shall be the responsibility of the Police authorities to ensure this. I have noted the undertaking of the Respondents so furnished across the bar that they shall not directly or indirectly or through any supporters cause any interference to the construction work of the flyovers and would not resort to any action which would directly or indirectly cause stoppage of construction work. They would not resort to any illegal act on the Ganesh Khind road and more particularly from the University Circle to the Agriculture College Gate during the pendency of the complaint before the Industrial Court. These assurances would suffice and complainant may also seek help from the Conciliation Officer as well as the Police authorities if the situation so requires. It is made clear that if there are any fresh instances at site offices, the company is at liberty to re-apply to the Industrial Court and seek appropriate reliefs.

7. Petition disposed of accordingly.

[B.H.MARLAPALLE,J.]